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ILLINOIS COMMERCE COMMISSION

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CHIEF CLERK'S OFFICE

RURAL ELECTRIC CONVENIENCE)
COOPERATIVE CO., and SOYLAND)
POWER COOPERATIVE, INC.,)
)

Complainants)
)

vs.)

DOCKET NO. 01-0675

CENTRAL ILLINOIS PUBLIC SERVICE)
COMPANY d/b/a AMERENCIPS,)
)

Respondent)

ANSWER OF RURAL ELECTRIC CONVENIENCE
COOPERATIVE CO. AND SOYLAND POWER COOPERATIVE, INC. TO
AFFIRMATIVE MATTERS SET FORTH IN THE ANSWER OF
INTERVENOR FREEMAN UNITED COAL MINING COMPANY

RURAL ELECTRIC CONVENIENCE COOPERATIVE CO., (RECC) Complainant
by its attorneys GROSBOLL, BECKER, TICE & REIF, Jerry Tice of counsel, and
SOYLAND POWER COOPERATIVE, INC., (SOYLAND) Complainant, by its attorney
MICHAEL HASTINGS, in Answer to the Affirmative Matters set forth in the Answer of
Intervenor, FREEMAN UNITED COAL MINING COMPANY (Freeman) states as follows:

COUNT I

RECC and Soyland Answer Affirmative Matters set forth in the Freeman Answer as
follows:

6. Freeman fails to file a Motion to Dismiss either regard to the Soyland allegation and
fails to answer the Soyland allegations and therefore is deemed to admit the same.

7. Freeman fails to file a Motion to Dismiss either regard to the Soyland allegation and

fails to answer the Soyland allegations and therefore is deemed to admit the same.

8. Freeman fails to file a Motion to Dismiss either regard to the Soyland allegation and fails to answer the Soyland allegations and therefore is deemed to admit the same.

9. Freeman fails to file a Motion to Dismiss either regard to the Soyland allegation and fails to answer the Soyland allegations and therefore is deemed to admit the same.

10. Freeman fails to file a Motion to Dismiss either regard to the Soyland allegation and fails to answer the Soyland allegations and therefore is deemed to admit the same.

13. RECC and Soyland have insufficient information with which to either admit or deny the Affirmative Allegations set forth in paragraph in 13 Count I of Freeman's Answer and therefore deny the same and demands strict proof thereof. Further, RECC and Soyland state that all electric service whether located on the surface or underneath the surface of the 80 acres comprising the "Arnold premises" in the South Half of the Southwest Quarter, Section 7, Township 11 North, Range 5 West of the 3rd P.M., Pitman Township, Montgomery County, Illinois are located within, on or under premises to which RECC and Soyland are entitled to provide electric service as set forth in the Complaint filed in the instant docket.

14. RECC and Soyland have insufficient information with which to either admit or deny the affirmative allegations set forth in paragraph 14 of Count I of the Freeman Answer and therefore deny the same and demand strict proof thereof. Further RECC and Soyland state that the lime injection/air shaft is located upon premises identified as the "Arnold premises" as described in the Complaint filed in the instant docket to which RECC and Soyland are exclusively entitled to provide electric service pursuant to the February 19, 1969 Service Area Agreement between RECC and CIPS and the ESA.

WHEREFORE, RECC and Soyland request the Commission to deny any relief by

virtue of the Affirmative Matters set forth in Count I of the Freeman Answer and to dismiss the same with prejudice.

COUNT II

RECC and Soyland in response to the Affirmative Matters set forth in Count II of the Freeman Answer state as follows:

1-14. RECC and Soyland reallege their answers to the Freeman Affirmative Matters alleged in paragraphs 1 through 14 of Count I of the Freeman Answer as and for thier Answers to Affirmative Matters alleged in paragraphs 1 through 14 of Count II .

15. No Affirmative Matters alleged.

16. RECC and Soyland have insufficient information with which to either admit or deny the Affirmative Matters alleged in paragraph 16 of Count II of the Freeman Answer and therefore deny the same and demand strict proof thereof. RECC and Soyland further state that the electric service at issue in the instant Complaint is located on, in or under the "Arnold premises" to which RECC and Soyland have the exclusive right to provide all electric service pursuant to the RECC and CIPS February 19, 1969 Service Area Agreement and the ESA.

WHEREFORE, RECC and Soyland request the Commission to deny any relief by virtue of the Affirmative Matters set forth in Count II of the Freeman Answer and to dismiss the same with prejudice.

COUNT III

RECC and Soyland in response to the Affirmative Matters set forth in Count III of the Freeman Answer state as follows:

1-14. RECC and Soyland reallege their answers to the Freeman Affirmative Matters alleged in paragraphs 1 through 14 of Count I of the Freeman Answer as and for their

Answers to the Affirmative Matters alleged in paragraphs 1 through 14 of Count III .

15. RECC and Soyland deny all Affirmative Matters alleged in paragraph 15 of Count III of the Freeman Answer.

16. No Affirmative Matters alleged.

17. RECC and Soyland deny the affirmative allegations in paragraph 17 of the Freeman Answer and further state that RECC and Soyland are entitled to exclusively provide all of the electric service utilized by a customer on the "Arnold premises" as described in the instant Complaint pursuant to the RECC and CIPS February 19, 1969 Service Area Agreement and the ESA.

18. No Affirmative Matters alleged.

19. No Affirmative Matters alleged.

20. No Affirmative Matters alleged.

WHEREFORE, RECC and Soyland request the Commission to deny all Affirmative Matters by Freeman and relief sought therefrom and to dismiss such Affirmative Matters with prejudice.

COUNT IV

RECC and Soyland in response to the Affirmative Matters set forth in Count IV of the Freeman Answer state as follows:

1-14. RECC and Soyland reallege their answers to the Freeman Affirmative Matters alleged in paragraphs 1 through 14 of Count I of the Freeman Answer as and for their Answers to the Affirmative Mattes alleged in paragraphs 1 through 14 of Count IV.

15. No Affirmative Matters alleged.

16. No Affirmative Matters alleged.

17. RECC and CIPS deny all Affirmative Matters alleged in paragraph 17 of Count IV of the Freeman Answer.

18. No Affirmative Matters alleged.

19. No Affirmative Matters alleged.

20. No Affirmative Matters alleged.

21. No Affirmative Matters alleged.

WHEREFORE, RECC and Soyland request the Commission to deny all Affirmative Matters alleged by Freeman and all relief sought therefrom and to dismiss such Affirmative Matters with prejudice.

COUNT V

RECC and Soyland in response to the Affirmative Matters set forth in Count V of the Freeman Answer state as follows:

1-14. RECC and Soyland reallege their answers to the Freeman Affirmative Matters alleged in paragraphs 1 through 14 of Count I of the Freeman Answer as and for their Answers to the Affirmative Matters alleged in paragraphs 1 through 14 of Count V.

15. No Affirmative Matters alleged.

16. RECC and Soyland deny the Affirmative Matters alleged in paragraph 16 of Count V of the Freeman Answer.

17. No Affirmative Matters alleged.

18. No Affirmative Matters alleged.

19. No Affirmative Matters alleged.

20. No Affirmative Matters alleged.

21. No Affirmative Matters alleged.

WHEREFORE, RECC and Soyland request the Commission to deny all Affirmative Matters alleged by Freeman and request for relief therefrom and to dismiss such Affirmative Matters with prejudice.

COUNT VI

RECC and Soyland in response to the Affirmative Matters set forth in Count VI of the Freeman Answer state as follows:

1-14. RECC and Soyland reallege their answers to the Freeman Affirmative Matters alleged in paragraphs 1 through 14 of Count I of the Freeman Answer as and for their Answers to the Affirmative Matters alleged in paragraphs 1 through 14 of Count VI.

15. No Affirmative Matters alleged.

16. RECC and Soyland deny the Affirmative matters alleged in paragraph 16 of Count VI of the Freeman Answer.

17. No Affirmative Matters alleged.

18. No Affirmative Matters alleged.

19. No Affirmative Matters alleged.

20. No Affirmative Matters alleged.

WHEREFORE, RECC and Soyland request the Commission to deny the Affirmative Matters alleged by Freeman and request for relief therefrom and to dismiss such Affirmative Matters with prejudice.

COUNTS VII THROUGH XI

Soyland in response to the Motion to Strike by Intervenor, Freeman of the Soyland Counts VII through XI states as follows:

1. Soyland denies the allegation of Freeman that Soyland has failed to allege that it is permitted to serve the premises made the subject of the Complaint herein and further sets forth that Soyland alleges that it is an electric supplier within the meaning of Sections 3.4 and 3.5 of the Act and that it has the right pursuant to the "All Requirements Contract" with RECC to provide all electric service to the customer and premises as alleged in the Complaint in the instant case and therefore Freeman by failing to answer Counts VII through XI is deemed to have admitted the same.

WHEREFORE, Soyland requests the Commission to find that Intervenor Freeman has admitted the allegations of Counts VII through XI and to enter an order granting the relief prayed for in Counts VII through XI.

ANSWER TO AFFIRMATIVE DEFENSE

RECC and Soyland in Answer to the Affirmative Defense of Res Judicata/Collateral Estoppel by Intervenor Freeman, state as follows:

1. RECC and Soyland admit that the Commission entered an Order in Docket ESA 187 dated February 17, 1982 but deny the allegations of paragraph 1 of the Intervenor Freeman Affirmative Defense and further state that pleadings of such Order does not set forth facts which RECC and Soyland can either admit or deny but such Order speaks for itself. RECC and Soyland further state that the reference to 810 acres of surface area is not described and therefore are not located with any specificity but RECC and Soyland allege that the same exist in Township 11 North, Range 6 West of the 3rd P.M., Nilwood Township, Macoupin County, Illinois being a different Township and County then Township 11 North, Range 5 West of the 3rd P.M., Pitman Township, Montgomery County, Illinois.

2. RECC and Soyland state that the allegations by Freeman as to the "Order" of

February 17, 1982 entered by the Commission in Docket ESA 187 are not allegations of fact which RECC and Soyland can either admit or deny but such Order speaks for itself. RECC and Soyland further deny each of the allegations of paragraph 2 of the Intervenor's Affirmative Defense.

3. RECC and Soyland have insufficient information with which to either admit or deny the allegations of paragraph 3 of the Intervenor's Affirmative Defense and therefore deny the same and demand strict proof thereof. RECC and Soyland further state that the electric service at issue in the instant Complaint constitutes electric service to the "Arnold premises" consisting of 80 acres located in the South Half of the Southwest Quarter of Section 7, Township 11 North, Range 5 West, of the 3rd P.M., Pitman Township, Montgomery County, Illinois.

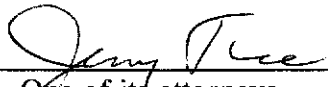
4. RECC and Soyland deny the allegations of paragraph 4 of the Intervenor's Affirmative Defense and further state that the Commission Order in Docket ESA 187 and the opinion of the Fourth District Appellate Court in RECC v Illinois Commerce Commission 118 Ill App 3d 647; 454 NE 2d 1200; 73 Ill Dec 951 (Nov. 4, 1983) speaks for themselves. The pleading of legal authority does not constitute the pleading of facts which RECC and Soyland can either admit or deny and RECC and Soyland deny that the same are properly pled in the Intervenor's Affirmative Defense.

5. RECC and Soyland deny the allegations of paragraph 5 of Intervenor Freeman's Affirmative Defense. RECC and Soyland further state that the pleading of law does not constitute the pleading of facts which RECC and Soyland can either admit or deny and RECC and Soyland deny that such law has been properly alleged in Intervenor Freeman's Affirmative Defense.


WHEREFORE, RECC and Soyland request the Commission to deny the prayer for relief in Intervenor Freeman's Affirmative Defense and to dismiss the same with prejudice.

RURAL ELECTRIC CONVENIENCE
COOPERATIVE, CO., Complainant

By: GROSBOLL, BECKER, TICE & REIF

By: 
One of its attorneys

SOYLAND POWER COOPERATIVE, INC.
Complainant,

By: 
Its attorney

GROSBOLL, BECKER, TICE & REIF

Attorney Jerry Tice

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Petersburg, Illinois 62675

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reccansfreeman0675.jitrec

MICHAEL HASTINGS


P.O. Box 3787

Springfield, Illinois 62708

Telephone: 217/529-5561


STATE OF ILLINOIS)
 : SS
COUNTY OF SANGAMON)

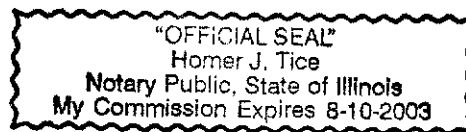
DAVID E. STUVA, being first duly sworn upon his oath deposes and states that he is the President and Chief Executive Officer of RURAL ELECTRIC CONVENIENCE COOPERATIVE CO., and that he has read the above and foregoing Answer to Affirmative Matters Set Forth in the Answer of Intervenor Freeman United Coal Mining Company by him subscribed and the same are true to the best of his knowledge, information and belief.


David E. Stuva

Subscribed and sworn to before me this


16 day of April, 2002.


Notary Public



COMMONWEALTH OF PENNSYLVANIA)
 : SS
COUNTY OF DAUPHIN)

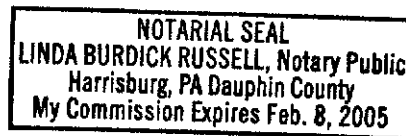
LAURENCE V. BLADEN being first duly sworn upon his oath deposes and states that he is the Vice President – Strategic & Corporate Services SOYLAND POWER COOPERATIVE, INC, and that he has read the above and foregoing Answer to Affirmative Matters Set Forth in the Answer of Intervenor Freeman United Coal Mining Company by him subscribed and the same are true to the best of his knowledge, information and belief.


Laurence V. Bladen

Subscribed and sworn to before me this

16th day of April, 2002.

Linda Brenda Russell
Notary Public



PROOF OF SERVICE

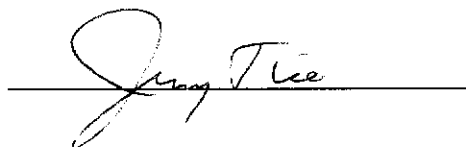
I, JERRY TICE, hereby certify that on the 19 day of April, 2002, I deposited in the United States mail at the post office at Petersburg, Illinois, postage fully paid, a copy of the document attached hereto and incorporated herein, addressed to the following persons at the addresses set opposite their names:

Mr. Scott Helmholz
Sorling, Northrup, Hanna
Cullen & Cochran Ltd.
Suite 800 Ill. Bldg.
607 E. Adams
P.O. Box 5131
Springfield, IL 62705

Gary L. Smith
Loewenstein, Hagen & Smith P.C.
1204 S. 4th St.
Springfield, IL 62703

Don Woods
Administrative Law Judge
Illinois Commerce Commission
527 E. Capital St.
Springfield, IL 62705

Greg Rockrohr
Engineering Staff
Illinois Commerce Commission
527 E. Capital St.
Springfield, IL 62701-1827

A handwritten signature in cursive script, reading "Jerry Tice", is written over a horizontal line.